US.Pat.Apl.Nr: 09/241,744

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Remarks,
responsive to O/A of 05 April 2004

1. This is in response to the (non-final) Office Action dated 05 April 2004.

2. In respect of the following, as indicated in the O/A, we request that the PTO make the correction by examiner's amendment:
- line 18 of page 13 (change 6 to six).

In respect of the following trademark reference, we request that the PTO make the change in the manner indicated in the O/A, by examiner's amendment:-
- line 22 of page 12.

We note that the trademarks mentioned as follows should presumably be dealt with in the same way, and if the PTO agrees with that, we request that they also be changed by examiner's amendment:-
- lines 20,21 of page 9,
- line 3 of page 10.

We have also attended to the *"Claim Objections"* as mentioned in the O/A.

3. As to the rest of the objections referred to in the O/A, we make the following comments.

We traverse the requirement to correct the other matters objected to, on the grounds that they represent merely one person's stylistic preferences.

However, if the PTO decides to continue the objections, we request that the corrections be made by the PTO, i.e by examiner's amendment to the specification. Since the corrections have no effect on understandability, we are neutral as to whether the corrections are made or not.

We note that a patent specification is addressed to the notional person skilled in the art, which in this case is a skilled designer/manufacturer of down-hole data retrieval systems. The specification is not addressed to academic professors of syntax, grammar, and literary style, on

the lookout for every little error or inconsistency, no matter how trivial or irrelevant to the technical understanding of the invention. Matters of individual stylistic preference should not be presented as errors that must be corrected.

4. Re the '112, 1st §, rejection of claim 17.

The examiner suggests there is no disclosure of providing tubing and then creating apertures in the tubing after determining a sampling depth. With respect, we feel there is ample disclosure of exactly that.

This invention relates to multi-level sampling. Of course, the persons skilled in this art know that the levels at which the samples are to be taken is a matter of pre-determination. The skilled persons know not to provide sampling ports just anywhere along the length of the tubing, at random, or on a whim.

Claim 16, from which claim 17 depends, recites that we install a flexible tube in the borehole, the tube having an aperture. Claim 17 recites that we determine a sampling depth and we create the aperture such that it will correspond with that sampling depth upon installation of the tube.

Lines 19 to 23 of page 11, for example, provide ample disclosure of that.

The examiner's remarks re the 1st § rejection imply that claim 17 recites a "then" and an "after". However, no such words are recited in, nor can we see they are implied by, claim 17. If the examiner reads claim 17 such that we are trying to protect the sequence of:
(1) arriving at the borehole site with our length of tubing
(2) then determining what depth we will take samples
(3) then cutting the aperture in the tubing, to suit that depth
(4) then lowering the tubing into the borehole
we will agree there is no disclosure specifically of that before/after sequence.

But that is not what we are seeking to protect in claim 17. Claim 17 says we determine the sample depth (e.g by geological survey), and we create the aperture such that the aperture will correspond with the sampling depth upon installation. There is ample support for that.

5. Re the '112, 2nd §, rejection of claim 17.
The examiner's point is noted, and we have amended claim 17 to clear it up.

6. We also explain our amendment to the paragraph starting at line 4 of page 6.

We do not wish the present patent to be granted on the basis that all the profiles and sizes of tubing as mentioned in our specification can be coiled or wrapped into a coil of five feet diameter, without damage (e.g kinking or buckling). The smaller sizes (e.g 3/4") can be wrapped into a coil that is small enough to be transported in a pick-up truck, which is what the five-ft-coil reference was based on. However, we do not wish to be taken to be asserting that 8" tubing stock, for instance, can be wrapped into a 5ft coil.

7. Regarding the reasons for allowance, we would prefer that the PTO state the reasons rather as:

The examiner, having searched, has not found any prior apparatus that falls within the scope of claim 1, being an apparatus that is either actually disclosed in the prior art, or an apparatus that is a merely obvious modification of an apparatus that is actually disclosed in the prior art.

Our claims were intended to serve only as definitions of the apparatuses we are seeking to protect. Our patent should not be granted on the basis that our claims have passed some irrelevant or non-legitimate test such as *Do the claims properly summarize an inventive step?*

Submitted by:

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Enclo:
- amended claims (4 pages)
- amendments to spec (1 page)